Steve Lundin

Steve Lundin received a bachelor's degree and law degree from the University of Washington. Steve recently retired as a senior counsel for the Washington State House of Representatives after nearly 30 years. His primary assignment was to provide committee services for the Local Government Committee. Steve was the primary drafter of the Growth Management Act that was enacted in 1990 and 1991. He has written a reference book on local government in Washington State.

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Tape 1, Side 1

Rita R. Robison: This interview with Steve Lundin is about the history of Washington State's Growth Management Act (GMA). The date is July 19, 2005, and the interview is taking place at the Washington State Department of Community, Trade and Economic Development (CTED) in Olympia. My name is Rita R. Robison, and I am interviewing Steve Lundin today.

Rita: So my first question is, what interest did you have in land use planning and in growth management before the passage of the GMA in 1990?

Steve Lundin: I always was interested in the general concept of land use planning and growth management. I started working for the Legislature in 1973, before full-time, non-partisan staffing was provided for the Legislature—I came down as a legal intern from the University of Washington Law School. On the flip of a coin, I was assigned to the Local Government Committee in the House.

The beauty of that was the fellow who was chair of that committee named Joe Haussler. He was a well-respected and elderly legislator from Okanogan County and I had a very good experience with him.

Well, at that time in 1973, a report had come out from the Washington State Land Planning Commission. This commission was created in 1971. The commission recommended legislation providing for a comprehensive state land use planning effort. The proposal was contained in HB 791 that was introduced in the House of Representatives and was referred to the State Government Committee. At that time I was working for the Local Government Committee. The bill was quite long—over 100 pages, something like that—and basically included many definitions and land use planning procedures with almost no policy in it. That bill passed out of the committee, passed the House, but died in the Senate. The office that I worked for for almost 30 years—the Office of Program Research, which is a non-partisan research body for the House of Representatives—was created June 1st of 1973, after the 1973 legislative session. That land use legislation (HB 791) came up again in 1974 and didn't get out of committee.

The chair the Local Government Committee that I worked for, Joe Haussler, felt that he should take over looking at growth management-type legislation. So in the summer of 1974, he basically starts working on this legislation. And another fella and I went down and interviewed people in Oregon about the newly enacted LCDC (Land Conservation and Development Commission), the new Oregon growth management legislation.

We essentially prepared legislation that was modeled on the Oregon LCDC law, although not as heavy state control, it was more local government control, but with principles and policies counties and cities had to reach. That legislation (HB 168) was introduced and considered in the 1975 session but really went nowhere in the 1975 or 1976 sessions.

Joe Haussler was an interesting guy, a relatively conservative fella from Eastern Washington, and he retired from the Legislature. He went out on two ideas; one of which he achieved, one of which he didn't achieve. The one, which he didn't achieve, was statewide growth management legislation. The one that he did achieve was minimum standards for local jails, both construction and treatment standards, in return for state money to remodel and build local jails. Again, two issues you wouldn't normally expect someone from Eastern Washington—it was the most rural part of the state, where he was from—to push. So I had that background. The next two chairs of the House Local Government Committee asked me to perfect the Haussler bill. So it was done the following year after he retired, and then two years after that, it was more or less improved for these legislators. Representative Thompson introduced this legislation (HB 65) in 1977 after Joe Haussler. The legislation was revised for the next chair of the House Local Government Committee for the 1979 legislative session but was not introduced. I had copies of both of these drafts.

Rita: So what did you think, when you went down to Oregon and interviewed people there?

Steve: Candidly, I was shocked, and they didn't understand the legislation they had. This other fellow (Tim Burke) and I read the Oregon legislation quite carefully and of the four or five people we interviewed only once person really understood the law. This is before they really started to implement it.

Rita: And did you interview citizens or lawmakers?

Steve: I can't remember everyone we interviewed, but the one who understood it was a lobbyist for either the cities or the counties. I can't remember, it was so long ago, but he was the only person that understood the law, not the people that were to administer it. And the irony in that law, and maybe it's changed now, is that the state has less control over what were called "activities of statewide significance" than the state had over activities that were not of statewide significance. It was the antithesis of what you'd think. Because what they did when they created this law, they looked at all the areas where the state had some input in land use planning in prior law, and those became the areas of statewide significance and activities of statewide significance. Everything else was under the LCDC, their growth management legislation.

Well, the irony was over all these other things of supposed statewide significance, the state only had an advisory role not a direct control role, and no one in Oregon understood that except for this one lobbyist for either the cities or the counties. That's the main thing I remember is how dumbstruck I was at how these people that had been attempting to implement this law for a year didn't really understand what was in the law. That may not be a feature of their law now, I don't know.

Rita: So then, you got us up to about the 1980s in terms of what was going on?

Steve: Right, basically nothing happened to my understanding from the Legislature's standpoint about growth management legislation until the fall of 1989. So there's essentially a ten-year gap when there wasn't much interest, and then it's basically all Joe King who was Speaker of the House after that and his interest.

Rita: What role did you play in the passage of the Growth Management Act?

Steve: Nothing in the passage, but quite a bit on the drafting of it.

Rita: Okay, tell us about the drafting.

Steve: Alright, as a staff person you don't advocate one thing or another, nor do you go out and lobby or suggest that people pass things.

Rita: So now, that's when you were working for the Local Government Committee?

Steve: Right.

Rita: And what was your title?

Steve: Senior counsel and it was to—not to that committee—it was senior counsel to the House of Representatives assigned to the Office of Program Research and assigned to the Local Government Committee. Well, after the primary election in 1989, and by the way, my recollection is Washington State had had a lot of growth in that period of time and, as I recall, the traffic problems in greater Seattle were just horrendous. There were big traffic jams and people were complaining about the traffic—that was in the news. And, as I recall, we were in a big economic boom period and people would see forestland that was cut down and developed and, for good or for bad, some of the people became upset and worried about that. That's what it appeared to me.

However, Joe King read the political winds, and he's the person you'd have to ask why. In early October one of Speaker King's key staff people, Tom Campbell—and this is not the legislator Tom Campbell, this is another Tom Campbell—asked me to prepare a memo for the speaker listing ten or 20 points that could be in a growth management legislation. Well, I asked Tom what was going on, and he basically said they were considering legislation in the next session.

So basically, what I did is I looked at the modified Joe Haussler draft, the last one that I had, and took parts of that legislation, and other ideas about growth management legislation, and described these for Speaker King. I don't remember how many points there were, but I sent a memo to the speaker and I'm sure Tom got it.

Within a day, Tom called me up and said forget these one or two points, expand these on this area. This went back and forth over a couple weeks, trying to flush out the details in the legislation and perhaps in the third iteration of this memo I could tell that they were getting closer to what they wanted. So I asked Kathie Thompson, the leg-assistant who worked for the local government committee, if she could find an electronic version of the last draft of this Haussler legislation that I had from the late 1970s. Well, it was no longer retrievable and the bill was only something like 25 pages long, so I just asked her if she could type it in word processing. We had gone from the era at this time of IBM electric typewriters to having computers, and so it became a lot easier for a drafter to work on something that was in a computer form.

And so Kathie typed the old draft and as the different versions of the memo would go back and forth, I would change the draft to reflect what appeared to be the speaker's thinking in this. Maybe there were five or six iterations. I said three earlier, but however many there were, on the last one or two there were fewer changes, so it became clear to me he was getting closer to what he wanted in legislation.

So when the final comments came back from Tom, "Okay, change these two or three things," it was not significant, I don't think I can remember what those issues were. And he said, "How long do you think it would take to draft something like that?" And I said, "Well, how about ten minutes?" And so I made the two changes and gave it to him. He just about fell out of his chair when he saw the complete draft a few minutes after he had asked for it. I didn't tell him what I'd done until afterwards and I had suspected that this would be what was happening.

In any event, so by mid- or late October, the draft was more or less done and that was essentially what was introduced as HB 2929 in the 1990 legislative session. This legislation included the basic growth management draft that I had drafted for the speaker, along with economic development concepts and extra transportation planning concepts that someone else drafted. And we took the bill—it had become quite a bit larger than what people would think the Growth Management Act would be—and drafted one large bill with it. And then we broke it into five parts. Each separate bill included the same intent section and definition section, but then only included separate parts of the major bill (HB 2929) relating to a single subject matter, and was assigned to a separate committee with jurisdiction over that subject matter. The complete bill (HB 2929) was assigned to the Appropriations Committee, which was chaired by then Representative Gary Locke. For example, the transportation part—the bill that went to the Transportation Committee—had just those sections in it after the first two relating to transportation and those in the Economic Development Committee had those sections dealing with economic development. The bill that included the basic land use planning requirements was assigned to the Local Government Committee, which I staffed. This bill included subjects that most people think would be the Growth Management Act, in other words the stuff you see in the Chapter of Laws, it's called the Growth Management Act—RCW 36.70A, or what eventually became that.

Each of these five policy committees was chaired by a woman. The five policy committees worked their bills and came out with substitute bills, which were referred to the Appropriations Committee, rather than to the Rules Committee where bills that pass out of committees normally are referred.

I basically took each of the five substitute bills and created a proposed substitute to the original bill that included all of the changes that the different committees made. And there really were no hard drafting choices; it was just folding things together. In other words, things weren't done that were in conflict by and large. So the proposed substitute bill (that was an amalgam of the five substitute bills that had been approved by the five policy committees) was heard by the Appropriations Committee, and they passed out an amended version of the proposed substitute. Technically, the bill came out of committee as a substitute bill. They amended the proposed substitute bull—altered it I guess you'd call it—and so they came out with a real substitute bill. So they modified the proposed substitute by passing a bunch of amendments to it. Substitute House Bill 2929 was then referred to the Rules Committee and later was referred to the floor of the House of Representatives. The House approved a lot of amendments to the substitute bill, which was approved by the House as Engrossed Substitute House Bill 2929. Engrossed means you engross or include the adopted amendments into the substitute and print it as a clean copy. That went to the Senate and basically the bill really wasn't going to go anywhere in the Senate apparently, but there was a lot of political pressure. And so the House and the Senate created a special group of legislators, the Four Corners group is what they called it, and, as I recall, there were two Democrats from the House, two Republicans from the House, two Democrats from the Senate, two Republicans from the Senate. The House was controlled by the Democrats; the Senate was controlled by the Republicans. And those eight legislators met for weeks and we basically hashed out a new version of the bill.

Rita: They met for weeks?

Steve: Yes, this Four Corners group. It was something like a conference committee, but it wasn't really a conference committee. And these were more or less private meetings, in fact they were in private—although some lobbyists were allowed in these meetings, but only by invitation. The group consisted of the eight legislators, who made the decisions, along with both partisan and nonpartisan staff from both of the houses, and some people from different groups who were invited by the legislators to attend. This included some lobbyists and executive agency staff from the Department of Community Development. Basically, the new proposal that was developed by the Four Corners group of legislators was prepared as a Senate amendment to ESHB 2929. The Senate adopted the amendment and the House concurred in the amendment. That legislation became the

1990 Growth Management Act.

Rita: Okay, so then what happened in terms of, you said that it was unlikely that the Senate was going to pass it, but there was some pressure so what was that?

Steve: I'm not sure what the pressures were and clearly someone like Joe King could respond. From my recollection, it appeared that the Senate wasn't going to pass the legislation or the Senate would approve legislation that was substantially different from the original legislation. And so I guess the powers that be—probably [Senate Majority Leader] Jeannette Hayner and Joe King—got together and thought we would have this Four Corners procedure. Something somewhat similar happened the next year in the 1991 version of the legislation. By the way, the Appropriations Bill in 1989 had included some money to create and finance another gubernatorial commission on proposed growth management legislation. I don't remember the name…

Rita: The Growth Strategies Commission?

Steve: The Growth Strategies Commission. Dick Ford, as I recall, was chairing that commission and they came out with—I can't remember if they had come out with some general principles or came out with a report. I don't think they'd come out with a report at that time, but Dick Ford was working with the Four Corners to perfect the legislation in 1990. So anyway, this group continued during the 1990 interim period—this Growth Strategies Commission—and basically proposed quite a few changes or additions to the Growth Management Act that were drafted and introduced for the 1991 session.

So their work overlapped the Legislature's work and as I recall they did have a formal report that was essentially put into bill form for 1991. I can't remember the details, but probably there were some changes or additions or modifications to it, but the Legislature enacted essentially what the commission had proposed. That legislation, as I recall, was not broken up into five bills, as the 1990 legislation had been. It just was a single piece (HB 1025). The House passed SHB 1025 and a Five Corners group was created by House and Senate leadership to work the legislation. The Five Corners group included two members from each of the four caucuses, and the fifth corner consisted of staff from the Governor's Office.

Rita: So it was the Four Corners group the first time…

Steve: In 1990 one or two people from the Governor's Office attended the Four Corners meetings and functioned more like staff, rather than functioning in an advocacy role. They did not participate unless they were asked a question by a legislator. The next year in 1991, the Governor's staff and Wayne Ehlers—an ex-Speaker of the House who was working for the Governor—chaired the meetings and so the Governor's Office was much more formally involved; I would say that Wayne was a key player in the development of this 1991 legislation. The preceding year the Governor's staff played more of a staff role rather than actual negotiating. I'm sure behind the scenes they were lobbying, but not in this group like they were directly participating and suggesting ideas, well why don't we do this, why don't we do that, or I'm in favor of this. So they were a fully participating party, and were directly involved in the negotiations in 1991.

The first year it was more staff assistance and response to questions, although I'm sure they lobbied behind the scenes—and there's nothing nefarious about this. But as a staff person, you don't see the lobbying. They don't lobby staff; they lobby legislators so I wasn't really aware of that. I'm sure they were directly involved in lobbying, but clearly there was a different role between 1990 and 1991, a much more direct, leading role in 1991 than in 1990. And basically what the Growth Management Act is the sum of the 1990 and 1991 law.

Amendments to the Growth Management Act have been enacted every year since 1991—and the most significant were in 1995 in response to recommendations from another commission called the Governor's Task Force on Regulatory Reform. I don't remember if the Legislature passed legislation to create this task force or if the Governor just created the task force and appointed it on his own. But, nevertheless, the task force came forward with a lot of proposed changes. And those are the most significant changes to the act, although there were changes made every year.

The task force's recommendations were included in HB 1724. These changes included the local project review law (Chapter 36.70B RCW), and the judicial review of land use decisions (Chapter 36.70C RCW). Other changes included attempting to coordinate the Shoreline Management Act and State Environmental Policy Act with the Growth Management Act. Growth management hearing boards were also granted authority to invalidate county and city comprehensive plans and development regulations under limited circumstances. Counties and cities were required to use the "best available science" when identifying the five critical areas.

Rita: Invalidities?

Steve: The power to invalidate, or essentially void, all or part of a comprehensive plan or development regulations. This is a very rare thing, but nevertheless it's a very powerful tool and that was added in 1995 at the request of the task force. Karen Lane chaired this task force.

Rita: What is your most interesting memory of the dynamics of the events that led to the enactment of the GMA?

Steve: Clearly, I think the Growth Management Act was the most important legislation I was involved with in almost 30 years with the Legislature. It got a lot of press. Most of the issues you deal with in Local Government Committee are kind of—they don't get any press coverage. They're kind of dull, technical, fix-it legislation, while the Growth Management Act was rather controversial, and there were clearly big politics going on in the state at that time. And it was very interesting to watch people react to it—in favor and against. So that was probably the most interesting thing that I saw.

Rita: So now, what about all these committee chairs working together, called the Steel Magnolias. Was that unusual for committee chairs to be working together?

Steve: Well, in the way they did, yes. The so-called Steel Magnolias were the women who chaired the five policy committees to which parts of the Growth Management Act were referred in 1990. Obviously different legislators worked together on the 1990 Growth Management Act legislation, but I'd never seen another bill broken up like this. And whoever thought of this idea and, I don't know who it was, clearly it came from Joe King. Maybe Tom Campbell or someone suggested it to him. But, nevertheless, it was a very wise strategy as far as involving people and involving the different committees because this legislation had impacts on the purviews of a lot of committees. There can be jealousy between chairs, protecting their turf. So it was—it seemed to me if you're working to pass the legislation—a very wise move on the part of the speaker in breaking the bill up like this. And, of course, there was the movie, "The Steel Magnolias," at the same time so these very powerful committee chairs, along with some other legislators from the House, were directly involved in this effort. Now U.S. Senator Maria Cantwell was one of the so-called Steel Magnolias and was also a member of the 1990 Four Corners group and the 1991 Five Corners group.

Rita: So was everyone charged up about the legislation?

Steve: I would say so, I mean, I think the proponents, the legislators were really hot for this, and the opponents—were quite charged up in the opposite direction. They weren't really hot for it, but it seemed to me the politics of the moment, right or wrong, was that this was a good thing to do.

It may not have been in retrospect, because a few years later the Democrats lost control of the House and some people argue it was because of that. Now maybe it was just the big shift going on in the country anyway. That's when the Republicans took over Congress too.

So that's probably just happening anyway. But there's certainly some unrest from trying to implement the Growth Management Act, clearly played in the pockets of the then-minority party, which became the majority party in the state House of Representatives. Although a lot of the members supported it, some Republicans opposed it just like some Democrats opposed it. It was more or less, it appeared to me, pushed by the Democrats with the acquiescence of the Republicans along with strong support from some Republicans. The Democrats basically lost an election several years later, so a lot of the opponents say it was payback time by the people. I don't know if that's accurate or not.

Tape 1, Side 2

Rita: So tell us more about the opposition. How were they accommodated? Why did they oppose the GMA and what were the compromises?

Steve: Well, they were clearly involved in the process of developing these two bills—like the Four Corner drafting process and the Five Corner drafting process—both legislators who somewhat opposed the legislation and some lobbying interests. So they were accommodated as far as having a seat at the negotiating table and clearly there were a lot of amendments that people planned to modify or to significantly change the legislation.

Somewhat as I recall, and I don't remember the details, but some of the people—I guess you could call them opponents of the legislation—did offer amendments that were accepted on the floor of the House or floor of the Senate or in each of these two working groups [the Four Corners group from 1990 and the Five Corners group in 1991]. In the legislative process, there's compromise and you perfect legislation. And no one got all that he or she wanted—maybe some legislators, like Joe King, got 80 percent of what he or she wanted, but it's a compromise and so these other interests were accommodated in the legislative process. Now, if you're an absolute opponent, you would argue you weren't accommodated enough, they should have defeated the bill. But some of their proposals were accepted. But for whatever sets of reasons, the legislation was going to pass, it was rather clear.

That was, I guess, the reality of the situation and the politicians—like Joe King—could respond about the politics more because that's basically what he was involved in. But it was clear to me that this thing had a high probability of passing. You don't have the Speaker of the House directly involved in legislation—particularly the way he was in this—unless there's a strong likelihood it's going to pass. He was clearly the most significant legislator in this. In fact, you could say he's the father of the Growth Management Act and it wouldn't have happened if it weren't for him.

Rita: What was the early process for local governments to begin their work under the GMA?

Steve: When you look at this, it's a little bit backwards because the first steps you take were enacted in 1991. The first steps were for each county to meet with the cities located within its boundaries and develop what are called county-wide planning policies to guide all actions taken by that county and those cities under the Growth Management Act. However, this requirement to develop county-wide planning policies was included in the 1991 legislation, not in the 1990 legislation._

So I think from an analytical standpoint, if you were to come up with a single bill that accomplished all these things, you would have put in some of those things in 1990. So you do the first thing—this county-wide planning policy is a guide, a set of policies that the county legislative authority adopts with input from the cities to guide all other decisions under the Growth Management Act.

Well, prior to that, in the 1990 law, the first thing they had to do was identify five critical areas and the three natural resource areas—and by the way the term "natural resource areas" doesn't occur in the law. It's a term of art meaning those three lands like agriculture, timber, and mineral resource lands. Ironically, they were supposed to identify these things. But then came in the 1991 law that says that you develop all of these policies, that among other things, tells you how to identify and protect these areas. So the logical first step came in the second [1991] bill, not the first [1990] bill.

But, nevertheless, I think the Growth Management Act was such a significant change in the planning process for local governments that a lot of counties and cities probably didn't start right away as they were directed to. Or if they did get started right away, they were probably spinning their wheels and having trouble meeting these requirements. The requirement for strong public involvement in the process was probably difficult for them to meet.

Rita: Right, and the cooperation part in the county-wide planning policy was new too.

Steve: Absolutely, and that's the glue that ties, supposedly, the county's comprehensive plan to the city's comprehensive plan, together. Generally, a jurisdiction's comprehensive plan is required to be consistent with the comprehensive plans of adjacent jurisdictions. Now, it's not absolute, but it's a pretty strong direction that they more or less have to follow—not absolutely, but more or less have to accommodate when they come up with their comprehensive plans.

Another of the unique requirements of the Growth Management Act is that each city's or county's zoning ordinance or the development regulations must be consistent with and implement its comprehensive plan and that the comprehensive plan must be internally consistent.

So how do you accommodate these consistency requirements? There's no precise, logical process to achieve that goal. It's kind of hit and miss under the Growth Management Act. It's a nice policy to reach toward and to aim toward, but there's no formal way of doing it. And I think CTED indirectly implements these consistency requirements by commenting on people's comprehensive plans and how they're developing it and that suggests how they were to do things. That brings some element of commonality in the plans, but it's not precise and technical, for example.

Let me make up a situation. If a small town were to come forward in the original Growth Management Act with its comprehensive plan and development regulations before all other jurisdictions in the county and propose to accommodate 90 percent of the projected growth for the entire county, those plans and regulations would be deemed to be in compliance with the Growth Management Act unless some jurisdiction successfully appealed these actions to the growth management hearings board. There are only a few weeks to appeal these actions. If an appeal by a party with standing was not timely made, then the comprehensive plan and development regulations stand as they were adopted. Technically, the county and all of the other cities and towns in the county could only plan to accommodate 10 percent of the projected growth for that county.

Now that would not make any sense and has never occurred. But it's a technical problem about how you logically accommodate the projected growth within the county. At least originally, counties had the most difficult jobs to do because they designated urban growth areas—that's a highly contentious issue—and they have many-fold more times the natural resource lands than the cities do. And you're basically not going to have a whole bunch of development on agricultural lands if it's not agriculturally related, for example. And that's quite controversial. The cities don't really have to address that issue. So the counties have a lot of difficulties.

Also, prior to enactment of the Growth Management Act, more cities zoned than counties. Clearly, King County did a lot of zoning beforehand, but it was more of an urban type of a thing. So the counties had a huge learning curve and more difficult issues to address.

Cities tended to adopt their comprehensive plans and development regulations under the Growth Management Act before the counties did. And since the county had a more difficult role both to jump over the hurdles to adopt something—psychologically to do it as well as do what they had to do—it would be more logical to start the clock ticking on all appeals within the county when people could challenge and file complaints against any of the cities' attempts as well as the county's attempts after the county had adopted its comprehensive plan and development regulations. This would allow the growth management hearings boards to review the county and city actions to determine if they are consistent, and they could sort out the issues.

In my hypothetical, the hearings board could say, Okay, the town of 200 people, it's ridiculous that they're going to get 90 percent of the growth in the county, and they could accommodate that issue all at once. Now, that presumes the people would appeal because the hearings boards don't act, they have no jurisdiction, unless a party of interest timely appeals.

That's a big difference between the Oregon law and the Washington law. Under the Oregon law, review and potential approval or rejection of local planning efforts by a state agency (the LCDC) is automatic. However, in Washington a state agency reviews local planning efforts, and may comment on them, but the state agency is not authorized to approve or reject these planning efforts. The local actions are deemed to be valid but a party may appeal the local actions to the growth management hearings board and the hearings board determines if the actions meet the requirements. In addition, rules and regulations adopted by the LCDC have the standing of law in Oregon. However, rules and regulations are not adopted by the Department of Community, Trade and Economic Development in Washington. Instead procedural criteria and guidelines are adopted to guide local actions under the Growth Management Act. In Washington State, they're more or less advisory, I would say. They're a little more than advisory. You have to look at them, consider them, and demonstrate that you've done this, but you don't have to follow them. In Oregon, you have to follow them. Plus, the Oregon growth management act is like the Shoreline Management Act model in Washington State—your local efforts go back to a state agency and they review and approve, or deny or reject, all or part of what you've done.

Rita: And that's in Oregon.

Steve: That's in Oregon and that's under the Shoreline Management Act in Washington State. The Washington Growth Management Act law is a much more local process. There is some state direction, but it's basically from the bottom up. The analogy in Oregon is it's almost completely from the top down. But if you're trying to have compatibility and keep the notion of local bottom-up efforts, I would say you would make it even clear that the county-wide planning policies are absolutely in control of the comprehensive plans. Secondly, you would have a process where all the comprehensive plans of the counties are reviewed, potentially approved by a hearings board at the same time, so they could solve these differences. Now, that's water under the bridge, because it's too late.

Rita: Now, you talked about going down to Oregon and you just mentioned Oregon again. Were there any other models that you looked at in your drafting?

Steve: Not really. I looked a little bit at some Georgia legislation on some of the economic development matters, because we either saw the results of their legislation or the proposed legislation that ended up going through and that was—I think it was enacted in either the 1989 or 1988 session. It was more of an economic-development-land-use planning rather than traditional land use planning that includes a strong economic development part. And it was driven by the desire—so the books say and the articles—of rural counties to have economic development, and that was part of the thrust of the state Growth Management Act, not withstanding what a lot of critics claim. This is not our law. Washington's Growth Management Act is not a total environmental bill. I think, in reading it and looking at it, it's more accurate to describe the Washington Growth Management Act as how do you accommodate growth in the most efficient manner with some environmental considerations being involved. And, for good or for bad, it says that you will accommodate most growth inside urban growth areas. Now, you can have some rural growth outside of those, but you will basically accommodate the growth inside the urban growth areas through acreage and density.

Rita: Right, and there were a number of Eastern Washington counties that opted in to the Growth Management Act for economic development reasons.

Steve: Absolutely. Of course, the law had a formula based on your population and the percentage of your growth in the last ten years to determine whether you had to plan [with a full set of requirements, including comprehensive plans and development regulations] under the act. And the rest of the counties could come in if they wanted to. But once you're in, whether by meeting the formula or opting in, you couldn't opt out and that's been somewhat a contentious issue about not being able to opt out. So, I think maybe eight or ten counties opted in. I have the direct figures, not in front of me, but a number of them were Eastern Washington counties. I think San Juan County opted in and one other Western Washington county opted in, but most of the Eastern Washington counties that are in the law opted in.

Rita: Now you mentioned the county-wide planning policy as being very important. Do you think there are any other areas of the Growth Management Act that you would also say are important? I mean, in terms of being the most important?

Steve: Well, when you say this, people think that's ridiculous, but it's like the internal compatibility part, but there's nothing in old law—what we have; they're called planning enabling laws. The first was enacted, I think in 1935, and it allowed counties and cities to plan if they wanted to and have a comprehensive plan and zoning ordinances.

Rita: Right, and it had, if you choose to plan, this is what you do.

Steve: Right, and it's very vague. It just had two or three elements that you had to have in your comprehensive plan and then a bunch of optional elements. And it had some procedures that you had to go through, but basically it was 100 percent optional. Well, then there was in 1957 an additional law for counties to allow them to plan.

Now, counties could choose to plan under the 1935 or the 1957 law. And then when code cities came along in 1969, they had a planning law, which was kind of halfway in-between the detail of the county law and the lack of detail in the 1935 or 1957 law. But these weren't mandatory; they were optional. But if you did them you kind of had to do a few different things. But nothing required these things to be internally consistent. And it seems to me that's an important concept. Why do something unless it's internally consistent?

The second thing, about external consistency—and I'm not sure how easily it is to reach it—but the external compatibility is somewhat of a revolutionary thing. I think the concept of urban growth areas where you're trying to contain growth among cities—and a lot of people claim that the Growth Management Act requires that all urban growth areas be inside a city—either incorporated or annexed—that's not true.

(Break in tape)

Rita: Are we done with the most important parts of the law?

Steve: No, I think there are a couple more things. So the compatibility, internal and external—the urban growth areas are extremely important and trying to accommodate growth and actually encourage growth. The Growth Management Act actually encourages growth inside urban growth areas as an element of planning, which most people would see is antigrowth. I think it's a unique concept. But then, the final thing, and unless you're kind of a governmentophile, this wouldn't make any sense, but local governments have to adopt transportation plans, six-year transportation plans both for streets and roads and then for mass transit. There's no requirement that they in fact spend money implementing these plans. They could spend money on anything else they wanted to—different kinds of road improvements and not what was in their plan. And the plan didn't have to be compatible with the applicable zoning requirements.

So now, this law says that you have to accommodate your six-year transportation wish list and transit wish list; where you're going to build things has to be compatible with the planning documents. And I'm sure a lot of times by happenstance, it would be implemented and be consistent with the comprehensive plan, but now it's legally required to. Again, there's an issue, in fact, Are people following that? But at least they're supposed to. So these kind of technical things I think are strong improvements. And if the law were to be repealed, I would think these technical things should be kept because they're very positive.

Why should you be spending money, providing roads to places that you haven't zoned for the density? This doesn't make any sense. And I'm not saying that occurs, but it could occur and probably has occurred, and it'd be more logical to try to coordinate the arms of governments. And the last thing is it forced governments—primarily counties and cities, but also port districts and transit authorities—to sit down and start talking to each other.

I think this occurs in rural counties quite frequently because they don't have much money. And they're scratching to make their ends meet and the counties really assist the small towns quite a bit in the rural counties. But I think—it's my general impression—in the more urbanized counties, it's kind of an "us versus them" process, and people don't sit down and talk and realize that they're in the same situation together and they should work for common goals. The Growth Management Act forces people to the table where they at least have to talk and are aware of what the other governments are doing. So I think that's another advantage to it.

Rita: Now, what about public participation? You mentioned that earlier and the deadlines were such, in terms of when the first plans and development regulations were due, that the public participation seemed difficult.

Steve: My general impression from what I read was the public participation requirements in Oregon—where this requirement came from—were much stronger. And, in fact, Oregon, since it's a top-down process, the government forced counties and cities to hold all kinds of meetings over and over and over because it was a top-down process. A state agency adopts mandatory rules for local governments to follow and possesses the authority to approve or reject local planning efforts. That does not exist in this state.

It was up to the local governments whether or not they would do this and the extent to which they would do this. Clearly, they have to have a public hearing. But if no one challenges anything at the local level—this requirement, as all the other requirements—you don't know if it's even met and most actions by local governments weren't challenged.

For example, Thurston County's efforts were never challenged in the first go-round. So Thurston County may have had a perfect citizen outreach, citizen participation effort, but no one's really reviewed this to see if they have. And you're right, Rita. I think the steps were so fast that had to come, that it was hard to accommodate. And my guess is that—other elements of the plan were met to a greater extent than the public participation elements were, but that's something that I think someone who has actually watched the local governments adopt these things would be in a better situation to respond to than me. But it's my partially informed impression that that goal has not been met as well as some of the other goals.

Rita: From your perspective, what was the view of legislators of the GMA over the years?

Steve: Some hate it and think it's the worst thing in the world and are trying to repeal it or have anyone opt out. Some really think it's great. I'm switching now from legislators to other people, but when I hear some representatives of a lobbying interest talk about the Growth Management Act, I'm always struck at how—from my perspective—inaccurate their descriptions of the Growth Management Act are. And the opponents tend to think it's horrible, it's a 100 percent environmental thing, and you can't have any growth in it at all. The proponents tend to argue that this is the greatest environmental thing in the world, that that's 100 percent of the focus of the bill. Well, they're both wrong.

Again, and I mentioned it before, if I described the Growth Management Act in one sentence, it would be: requirements for organized planning to accommodate growth on the local level, primarily in urban growth areas, and with some accommodation to environmental consequences. I worded it differently, but off the top of my head that is what I think the bill does. And it's a businesslike approach. If you're going to accommodate growth, how are you going to do it, because you're forcing the expenditure and infrastructure—or you're not forcing, you're requiring. Whether it's implemented or not is another question.

You're requiring the infrastructure that's provided to accommodate the growth, and you've got to think about the infrastructure and where you're going to put it and how you're going to finance it. Again, I'm sure the practice is not perfect. But that's the goal and it requires people to do that and that's not antigrowth, that's not 100 percent environmental protection. It's kind of a mix of both accommodating growth in a portion of the county and including some environmental protections. And I would say legislators may reflect those misunderstandings of the Growth Management Act because they don't really understand in detail what the law is.

It would be impossible for many of them to understand that and virtually none of them that were heavy participants in it—almost none of them are still around in the Legislature. So they have their own learning curve on it—what they hear and what they've read. And I tend to think almost all sides are misinformed on what the Growth Management Act is.

Tape 2, Side 1

Rita: How has the GMA evolved? What significant things has the GMA done to meet the goals it was intended to achieve and how has it changed land use patterns in the state?

Steve: That's kind of difficult for me to answer because you'd have to have looked at all the local plans and I really haven't. I think there are other people like Mike McCormick who could respond to that. But I think the fact of having to work together at least somewhat and marginally, at least having to have compatible plans, could improve the situation. And clearly less density has occurred outside of urban growth areas than would have occurred if there was no such thing as urban growth areas. That's probably had the greatest impact—is not allowing urban growth, and a negative word would be sprawl, way outside already urbanized or areas that are close to already urbanized areas. If you use a term, it hints at your position and "sprawl" would be a negative term or "allow to occur" or something like that would be a more neutral term, but the term of art is "urban sprawl." And I don't think it's been as effective as the Oregon GMA has because the top-down thing is a much stronger—rules and regulations by the state probably contain more growth inside urban growth containment areas than has occurred in this state. But I would think that's probably the biggest thing.
Rita: So the next question is name the five most important success of the GMA. So you talked about urban growth areas and the goal to reduce sprawl. Are there any other successes that you can think of?
Steve: Again, you'd have to look at what's actually occurred to determine whether you think it's a success and then it's in your own eyes. I think just the requirement to sit down and talk is, believe it or not, almost a revolutionary change. And they still yell at each other, I'm sure, and complain about these guys that are, "I'm 100 percent right and my interests are perfect and the other guys are sandbagging me," and all this other stuff. But just to sit down and talk about things and try and make the plans and regulations somewhat consistent, I think is a salutary effect.
I would think the attempts in urbanized counties to conserve their agricultural lands—for at least the short run—will have a fairly important effect and maybe not long term, because it may not be viable to have any agricultural lands—except kind of small specialized farms—in King County. But at least, it's delaying the demise of agriculture in the highly urbanized counties; that's my guess. Now maybe that's not good. And, I think, the attention to floodable areas and kind of dangerous-to-develop areas like landslide areas has a positive effect.

Now I just said three. I mentioned before, trying to coordinate your transportation expenditures with land use regulations, I think is a good feature. So I would think those four are the most important.
Rita: Okay. So as a staff person over the years in terms of people coming and testifying before your committee, were there any examples of people who came and talked about what was going on at the local level, over the years?
Steve: Sure. Some of the lobbyists would describe situations. But you get a lot of stories about how, "I bought this land 30 years ago and it was my retirement and now today I can't do anything with it. This is horrible." You get these stories which I'm sure may be accurate. But government, when it wields its regulatory authority—I don't think it wields it with a scalpel, it wields it more with a hatchet—it is not capable of the fine tuning. And maybe that comes in—the fine tuning comes in not enforcing law, which I'd guess has probably occurred in certain areas. But some of the accommodations—not through the formal variance procedure, but through really not enforcing it—may have had some salutary effect. But most of the testimonials that we heard were against it. The environmentalists would come in and say how great it was because it's a strong environmental bill. Now, it does have environmental requirements, but I wouldn't describe the Growth Management Act as an environmental bill.

Rita: If another state wanted to adopt a growth management law, what advice would you give them?

Steve: Very few have adopted a statewide Growth Management Act. I mean Oregon clearly is held up as the most significant. Hawaii has some and Florida has one, and I don't know much about these. But you hear that the implementation is not very effective in those other states. Oregon is held up as the best one.

The one thing I would say—and I've talked to some business lobbyists, who no longer lobby and who are involved in the Growth Management Act—on the surface, the way it appears with the hearings boards would be less intrusive in the local prerogative than the Oregon model.

In reality, my guess is that the Oregon model, the model that we used in the Washington State Shoreline Management Act, is actually less intrusive at the local level. Now, that seems counterintuitive, but under the Washington model or Growth Management Act when you appeal something you isolate down to an issue or two that you're appealing. You don't say the whole thing stinks, you have to state how the local effort specifically violates or doesn't implement the state law.

The appeal is a semi-judicial process. So you pit foes, and pro and con people, against each other and you isolate it down, or technically the hearings board only can consider the isolated element that's brought to it. They technically can't balance that off with everything else the county or city did under the Growth Management Act.

So you could—from a technical standpoint, if they're 100 things you are required to do—have 99 that are the most advanced and perfect, but this one little area that you mess up in, and that's the only thing that the board hears and the only thing they can consider, they'll come down and potentially negate your actions in that area. And it's also hit and miss, the review, because it's on specific issues.

Compare that to where a state agency—and state agencies are political, they're not as independent as a hearings board, which is appointed members holding specific terms of office. State agencies are, for good or bad, under the control of the Governor and they're going to have to take politics into consideration. They're going to balance the whole effort and probably, in my example where the county did 99 great things and one thing they didn't do to well, a state agency would probably accept that and say that the plan or the zoning ordinances are okay, because in balance they are. The hearings board will focus on that one little issue, and people get the pro and con side. And, I think in reality this is counterintuitive, but can be more intrusive than what happened under the other law, the Washington Shoreline Management Act.

I understand the Department of Ecology rejected almost nothing in the first local shoreline master plans that came before it. They accepted almost everything. Apparently, the idea was to bring everybody into the fold gradually, then force them into more or less complying with what the quote, "real requirements of the law" were at a later date. Well, that never really occurred until maybe a few years ago. State agencies, I think, are very hesitant to come down on what local officials do. A hearings board is much more likely to be critical, I think.

Rita: So how do you think the hearings boards are carrying out their duties?

Steve: Well, probably pretty well. But again, it pits sides against each other. Technically a hearings board decision is limited to the issue that has been appealed, and the board does not balance this issue with the overall quality of the jurisdiction's efforts. I think they do the best job they can. It's kind of hard to say unless you actually were on the ground and saw what the local government did and observed the hearing and read what the written result of the hearing was. I've never done that. I've read a lot of the results, the decisions, but my guess is they probably implement it fairly well.

Rita: So you mentioned state agencies. So how did CTED react to the passing of the GMA and how is their role in administering the act over the years being carried out?

Steve: I think it's done very well. Again these are not traditional rules. They're kind of like guidelines, is one of the terms, they're not mandatory. The hearings boards have required counties and cities to at least consider these guidelines, you don't have to follow them, but you have to at least consider them, and if you don't consider them and follow them, you have a stronger burden to justify why you came up with what you did.

So, the hearings boards have made the guidelines a little more than totally advisory. But the guidelines don't have the formal weight of the law, which most regulations would or which virtually all other regulations would.

My impression is that CTED encouraged a lot of cooperation among some of the cities and counties and has been fairly effective in assisting some of the less sophisticated jurisdictions. The Growth Management Act had a lot of money in it that went down to the local level. Now some people would argue that it was wasted, but from what I heard, the smaller and the less sophisticated jurisdictions tended to get a lot more money than King County or Seattle—at least a lot more money relative to the expense of your process. So I think the money really helped a lot.

One of the other interesting things about the Growth Management Act was the actual glee that legislators seemed to have had in forcing state agencies to comply with the local zoning, which is a revolutionary concept, I might add.

Rita: Do you know where that came from?

Steve: I don't actually remember the legislator that proposed the requirement that state agencies must comply with local development regulations under the GMA and whether it was 1990 or 1991, I can't remember. But in either the 1990 Four Corners group, or the 1991 Five Corners group, the first thing that they agreed upon was that, "Yes, let's get the state!" and force state agencies to comply with GMA development regulations that are adopted by counties and cities.

Now these are state legislators that supposedly represent the state, but they're representing their constituents. And all sides, the pro-Growth Management Act and the anti-Growth Management Act factions and the people in between, said, "Yes, let's do that!"—without much thought, I really think, on the consequences of this requirement.

Now the Shoreline Management Act has the same concept in it, but the state reviews and approves these things. For the sovereign to give up its sovereignty is really something. There are a few features of the Growth Management Act that somewhat mute the requirement that state agencies must comply with local GMA development regulations, but I can't remember the actual terms.

Rita: Essential public facilities.

Steve: Right, the requirement that a comprehensive plan must include a process to identify and site essential public facilities [RCW 36.70A.150] somewhat diminishes the requirement that the state must comply with local development regulations. But you know, if the state wants to put an office building—I would argue that the office building wouldn't rise to the level of an essential public facility—and yet they [local governments] could say, "Too bad, you can't." One thing they could say is, "No more buildings over one story and too bad you can't do it." And the catch-22 is the state has to have its buildings, more or less, has to have them in Olympia. Well, how does it do this? I just don't know if it was really thought out. But the actual glee that I saw, and I won’t mention names, but it was extraordinary, but that is a very critical thing. The state could basically do whatever it wanted, being the sovereign, before that. The other two related concepts are the requirement to identify lands useful for public facilities, RCW 36.70A.200, and the requirement that a county-wide planning policy must address policies to site “public capital facilities of a county-wide or state-wide nature” (RCW 36.70A.210(3)(c) and (d).

Rita: Now, you mentioned the 1995 amendment to the GMA as important. Are there any other amendments that occurred over the years that you’d like to discuss?

Steve: I don’t think so. I think if you add 1990, 1991 that’s basically the Growth Management Act. With the 1995 changes, that’s 99 percent of the Growth Management Act. I think those are important things. I mean, they fine-tune things like the larger counties, the more dense counties had to look at—again, I forget the term and I didn’t work on this part because I ceased working at the Local Government Committee then—the lands inventory, developable lands inventory, or something like that, that the larger counties have to do. I think that’s a pretty important thing.

Rita: Buildable lands.

Steve: Buildable lands. But it’s not only land, it’s density because you can build up as well as out. You know, since the Growth Management Act is designed that you have to accommodate this growth, basically, if you choose not to, something’s wrong and it’s a very expensive process. The development side of the interests pushed this, but I think it’s a good thing to do. Again, I’m not so sure they emphasized density as much as acreage, but that’s probably a pretty good change. And I think that’s been extended to more than the highly urbanized Central Puget Sound counties, I’m not really sure.

Rita: Well, it’s six. It’s Puget Sound and Thurston and Clark. Do you have any additional comments or stories that you’d like to tell us about?

Steve: No, I think that’s about it.

Rita: Well, thank you very much.

Steve: You’re welcome.

Rita: It was great!